

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 17812
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On December 18, 2003, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of Idaho individual income tax in the amount of \$472 for the period ending December 31, 1998; \$885 for the period ending December 31, 1998; and \$886 for the period ending December 31, 1999. The taxpayer filed a timely protest and petition for redetermination of the refund denial. The Tax Commission has reviewed the file, is advised of its contents and hereby issues its decision.

On October 15, 2003, the taxpayer submitted his 1997 through 1999 Idaho individual income tax returns to the Tax Commission for processing. Because the time for claiming the refunds shown in the three returns had expired, a letter was mailed to the taxpayer advising him of the Tax Commission's intent to deny the refunds. The taxpayer objected and a Notice of Deficiency Determination was issued wherein the taxpayer was advised the refunds were denied and he had a right to appeal the determination.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

63-3032. Time for filing income tax returns. (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

As a resident of Idaho with taxable income, the taxpayer was required to file Idaho individual income tax returns. The returns were made on the basis of the calendar year; therefore, they were required to be filed on or before April 15th following the close of the calendar year.

In his letter of protest, the taxpayer stated he considered the three-year limitation on claiming a refund to be wrong because, if he owed taxes in those years, he would be required to pay the tax plus interest. He explained that he had six years of legal issues with his ex-wife that would have allowed her to take his refunds if he had filed his returns. He added that the money he overpaid in taxes was an interest free loan that he was asking to have returned to him without interest.

When the taxpayer did not comply with the requirement to file his income tax returns within a certain time frame, he put his refunds in jeopardy. He explained his reason for not filing as: “Due to legal issues with my ex-wife, that was held up in courts for the last six plus years, I have been unable to file those taxes without losing my refund to her.” However, a legal issue between two spouses is a civil matter that does not relieve taxpayers from their obligation to file tax returns in a timely manner.

The taxpayer’s contention that the overpayment was a loan is flawed.

Idaho Code § 63-3035(c) states in pertinent part:

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this chapter shall hold the same in trust for the state of Idaho. . .

Subsection (f) of Idaho Code 63-3035 explains an employee’s filing responsibility as follows:

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

The monies withheld from the taxpayer's paycheck by his employer became state money at the time they were deducted. The taxpayer was responsible for filing his income tax return each year to credit the money against his income tax liability and claim any refund.

Idaho Code § 63-3072(a), (b), and (c) state:

**63-3072. Credits and refunds.** -- (a) Subject to the provisions of subsections (b), (c) and (h) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such overpayment shall be credited against any tax administered by the state tax commission which tax is then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid. (Emphasis added.)

Idaho law provides for a refund of any overpayment; however, the claim for refund must be made within a certain time frame. The taxpayer made his claim for a refund when he filed all three returns on October 15, 2003. Unfortunately, the time allowed for claiming the 1997 refund expired on April 15, 2001; the time allowed for claiming the 1998 refund expired on April 15, 2002; and the time allowed for claiming the 1999 refund expired on April 15, 2003.

The Tax Commission finds Idaho Code § 63-3072(c), cited above, is controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain time frame. No credit or refund will be issued.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated December 18, 2003, that denies the taxpayer a refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

\_\_\_\_\_